

December 9, 2022

**VIA ECF**

The Honorable Lorna G. Schofield  
United States District Judge  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

Re: *Harrington Global Opportunity Fund, Limited v. CIBC World Markets Corp., et al.*,  
No. 1:21-cv-00761 (LGS) (S.D.N.Y.)

Dear Judge Schofield:

We write pursuant to the Court’s November 30, 2022 Order, ECF No. 128, to submit the attached joint stipulation and proposed order setting forth a schedule for the filing of the Second Amended Complaint (“SAC”) and briefing on Defendants’ anticipated motion to dismiss and to describe the reasons the parties believe that the most efficient course is that the Defendants’ motion to dismiss be resolved before the parties proceed with depositions.

The parties respectfully submit that proceeding with depositions before testing the SAC would result in a substantial and inefficient expenditure of time, effort, and resources. Discovery to date has focused solely on allegations in the First Amended Complaint (“FAC”—i.e., whether Defendants engaged in spoofing trades for their own accounts and economic benefit. Indeed, the Court denied Harrington’s motion to compel information on trades and orders placed by Defendants on their customers’ behalf, finding that Harrington had “not articulated any plausible theory under which any currently named Defendant is liable for their customers’ trading activity.” ECF No. 120 at 4.

If the parties depose any witnesses now, such depositions risk being a wasted effort because they would focus only on alleged spoofing by Defendants on their own behalf as alleged in the FAC.<sup>1</sup> If the SAC, which adds allegations relating to trading initiated by customers, survives Defendants’ motion to dismiss, there is a substantial risk that some witnesses will need to be deposed a second time concerning such trading. A second round of depositions of the same witnesses would place substantial burden on all parties and especially the witnesses themselves, particularly where so many of the relevant witnesses are former employees.

To limit the substantial burden imposed by conducting fact depositions on potentially irrelevant allegations and claims (and at least one party) under the existing complaint, and to avoid potentially duplicative efforts if the SAC survives dismissal, the parties agree that, consistent with the Private Securities Litigation Reform Act, an immediate stay of discovery pending resolution of Defendants’ motion to dismiss is the most efficient path forward.

---

<sup>1</sup> Such depositions also would unduly burden CIBC World Markets Corp., which is no longer named as a Defendant in the SAC.

The parties are available to discuss at the Court's convenience.

Respectfully submitted,

/s/ Abby F. Rudzin

Abby F. Rudzin  
William J. Martin  
O'MELVENY & MEYERS LLP  
Seven Times Square  
New York, NY 10026  
(212) 326-2000  
arudzin@omm.com  
wmartin@omm.com

*Counsel for Defendants BofA Securities, Inc.  
and Merrill Lynch Canada, Inc.*

/s/ Alan M. Pollack

Alan M. Pollack  
Felicia S. Ennis  
Leron Thumim  
WARSHAW BURSTEIN, LLP  
575 Lexington Avenue, 7<sup>th</sup> Floor  
New York, New York 10022  
(212) 984-7700  
apollack@wbny.com  
fennis@wbny.com  
lthumim@wbny.com

/s/ Jamie Dycus

Jamie Dycus  
David Lesser  
KING & SPALDING LLP  
1185 Avenue of the Americas  
34<sup>th</sup> Floor  
New York, NY 10036  
(212) 556-2100  
jdycus@kslaw.com  
dlesser@kslaw.com  
*Counsel for Defendants TD Securities, Inc.,  
and TD Securities (USA) LLC*

/s/ James Wes Christian

James Wes Christian, Esq.  
Ardalan Attar, Esq.  
CHRISTIAN LEVINE LAW GROUP, LLC  
2302 Fannin, Suite 205  
Houston, Texas 77002  
(713) 659-7617  
jchristian@christianlevinelaw.com  
aattar@christianlevinelaw.com

*Counsel for Plaintiff Harrington Global  
Opportunity Fund*

/s/ Sandra D. Hauser

Sandra D. Hauser  
DENTONS US LLP  
1221 Avenue of the Americas  
New York, NY 10020  
(212) 768-6802  
sandra.hauser@dentons.com

Stephen J. Senderowitz  
233 South Wacker Drive, Suite 5900  
Chicago, IL 60606  
(312) 876-8141  
stephen.senderowitz@dentons.com

*Counsel for Defendants CIBC World  
Markets Corp. and CIBC World Markets Inc.*